

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARRYL ALLEN DAVIS,)
)
 Petitioner,)
)
 v.) 1:12CV788
)
)
UNITED STATES OF AMERICA,) 1:06CR316-1
)
)
 Respondent.)

ORDER

On July 2, 2013, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Petitioner and Respondent have both stipulated that no objections to the Recommendation will be filed. (See Joint Stipulation [Doc. #32].) Therefore, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #30] is hereby adopted.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence [Doc. #18] is GRANTED, and Petitioner's sentence set out in the Judgment [Doc. # 16] is VACATED. The Clerk is directed to set this matter for resentencing. Petitioner remains in custody, and the United States Attorney is directed to produce Petitioner for the resentencing hearing. The Probation Office is directed to prepare a Supplement to the Presentence Investigation Report in advance

of the hearing. Counsel will be appointed to represent Petitioner at the resentencing hearing.

This the 15th day of August, 2013.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge